

Nikita

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO.2410 OF 2025

Swapnil Dnyanoba Khutwad	... Applicant
V/s.	
The State of Maharashtra	... Respondent

Mr. Amol B. Jagtap a/w Mr. Aamir Qureshi a/w R. K. Parmar for the Applicant.

Ms. Anamika Malhotra, APP for the State.

CORAM : ASHWIN D. BHOBE, J.

DATED : 23rd JUNE, 2025

P.C.:

1. Heard Mr. Amol Jagtap, learned Advocate for the Applicant. Ms. Anamika Malhotra, learned APP for the State.
2. By the present application filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, Applicant is seeking bail in connection with C. R. No.453 of 2024, registered with Rajgad, Police Station, Pune for the offences punishable under Sections 103, 351(2), 351(3), 238, 126(2), 115(2) of the BNS.
3. Case of the prosecution is that on 22.09.2024, Ganpat Kuthwad, was found lying unconscious on the riverbed of Gunjawani river in an unconscious state. He had sustained injuries to his head and eyebrows. Motorcycle of the Ganpat Kuthwad was found hanging on the iron grill of the bridge on Gunjawani river. By the time, Ganpat Kuthwad was taken to hospital, Ganpat

Kuthwad was declared dead. As per the FIR, the Applicant had committed the murder of Ganpat Kuthwad.

4. Applicant was arrested on 25.09.2024, since then the Applicant is in Jail.

5. Bail Application No.294 of 2025, filed by the Applicant was dismissed by the learned Additional Sessions Judge, Pune, on 10.03.2025.

6. Mr. Amol B. Jagtap learned Advocate for the Applicant submits that the Applicant has been falsely implicated in the present crime. He submits that there are no eye-witnesses to the crime as alleged and the prosecution case is based on circumstantial evidence. He submits that as per the inquest panchanama, the injuries on the deceased are in the nature of abrasions. He submits that no recoveries are made from the Applicant. He submits that the Applicant does not have any criminal antecedents. He submits that investigation is complete.

7. Ms. Anamika Malhotra, learned APP for the State, submits that there is a witness who has seen the Applicant along with the deceased just prior to the death of the deceased. She submits that call details of the Applicant as well as the deceased indicate that they were present at the spot of the incident. She submits that the CCTV footage shows the deceased being followed by the Applicant. She submits that the Applicant has made extra judicial confession to a person confessing about the crime. She therefore opposes the bail application.

8. I have perused the record with the able assistance of learned Advocates for the parties.

9. Case of the prosecution is based on the circumstantial evidence. There are considerable time gap between the time the Applicant and the deceased were last seen together alive. Witness to the last seen together theory, does not make reference to any physical assault. CCTV footage, is not sufficient to say by certainty that only the Applicant could have committed the alleged offence. The extra judicial confession referred by the learned APP has inconsistencies. Call details referred and relied upon by the prosecution, again are not sufficient to establish the presence of the Applicant at the spot where the deceased was found. Injuries on the deceased and the manner in which the motorcycle of the deceased was found, do not support the case of the prosecution. Material placed on record is inferential in character. Prosecution will have to prove the circumstances relied during the trial.

10. *Prima facie*, the material against the Applicant, at the most creates a suspicion against the Applicant. Suspicion however grave does not substitute proof. The matter will have to be decided on trial. Considering the nature of allegations and the material which has come on record, is not compelling to deny bail to the Applicant, pending the trial. Applicant does not have criminal antecedents. Applicant is therefore, entitled to bail.

11. In view of the above, the present Bail Application is allowed, on the following conditions:

a) Applicant is directed to be released on bail in

connection with C. R. No.453 of 2024, registered with Rajgad, Police Station, Pune, on his furnishing PR bond in the sum of Rs.25,000/- with one or two sureties in the like amount to the satisfaction of Additional Sessions Judge, Pune.

b) Applicant shall report and appear before the Investigation Officer, Rajgad Police Station, Pune Rural on the 5th day of each month from 10.00 am to 12.00 pm.

c) Applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of the case so as to dissuade him from disclosing the facts to the Court or any police officer and shall not tamper with evidence.

d) Applicant upon release, within 3 days shall furnish to the Investigation Officer, Rajgad Police Station, Pune his residential address with proof and the contact number and to keep the Investigation Officer intimated about the change in the same from time to time.

e) Applicant shall not leave the State of Maharashtra without prior written permission of the Investigation Officer, Rajgad Police Station, Pune.

12. The Bail Application No.2410 of 2025 is disposed off.

(ASHWIN D. BHOBE. J.)